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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO:335 of 2006

DATED: 20-07-2006

Between:

The Deputy General Manager, Disciplinary Authority, State Bank of India, Zonal Office, Visakhapatnam District.

..... APPELLANT

AND

Y.S.Vidya Sagar

.....RESPONDENT

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JUDGMENT: (per BPR, J)

Heard both sides, and at their request, the main writ appeal itself is taken up for disposal.

The appellant herein, who is the Manager, Disciplinary Authority, filed this appeal seeking to assail the orders dated 04-01-2006 passed in W.P.No.25758 of 2005 filed by the

contesting respondent herein, wherein he sought a writ of mandamus seeking a direction against the respondent not to proceed with the departmental proceedings dated 31-12-2004 till the disposal of C.C.No.116 of 2005 on the file of the Judicial First Class Magistrate, Kothavalasa.

The learned single Judge, having found that there appears to be some variations, gave certain directions pointing out that the respondent cannot be proceeded with the departmental enquiry in respect of the charges, which are serious in nature, and find place in the charge sheet filed in the criminal case against the petitioner or otherwise to await the conclusion of criminal proceedings.

During the course of arguments, the learned counsel for the appellant submits that in fact the petitioner did file another writ petition also virtually on the same lines seeking the self same relief in W.P.No.13792 of 2005 and the same was dismissed.

On considering the submissions made on either side and also on perusal of the material on record, it is seen that on the relief sought in the earlier W.P.No.13792 of 2005 which is one for declaration declaring the action of the respondent in initiating the departmental enquiry in respect of similar allegations in Crime No.9 of 2003 registered in Kothavalasa Police Station, Vizianagaram District, the learned single Judge did not find favour with the respondent and ultimately, dismissed holding that the

departmental enquiry can be proceeded against. On consideration of the finding as arrived at, and especially, the said orders in W.P.No.13792 of 2005 having become final as not being challenged by the petitioner, he would not be entitled to invoke once again the jurisdiction of this Court under Article 226 of the Constitution of India for the same relief, and as such the writ petition in W.P.No.25758 of 2005 is not maintainable.

The Writ Appeal is accordingly allowed and the order of the learned single Judge in W.P.No.25758 of 2005 dated 04-01-2006 is set aside, consequently, W.P.No.13792 of 2005 filed by the respondent herein stands dismissed. No costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

20th July, 2006
SKM